

MEETING RECORD

NAME OF GROUP: City Board of Zoning Appeals

DATE, TIME AND PLACE OF MEETING: Friday, December 17, 2004, 1:30 p.m., Hearing Chambers, County-City Building, 555 South 10th Street, Lincoln, Nebraska

**MEMBERS AND OTHERS
IN ATTENDANCE:**

Members: Gene Carroll, George Hancock, Tom Wanser and Linda Wibbels. Gerry Krieser absent.
Others: Terry Kathe (Building & Safety), Tonya Skinner (City Law Dept.), Becky Horner and Michele Abendroth (Planning Dept.), applicants and other interested parties.

**STATED PURPOSE
OF THE MEETING:** Regular Meeting of the City Board of Zoning Appeals

Mr. Carroll called the meeting to order at 1:30 p.m.

Approval of the minutes of the November 19, 2004 meeting

The members present voted to unanimously approve the November 19, 2004 minutes. Carroll, Hancock Wanser and Wibbels voting 'yes'; Krieser absent.

Appeal No. 2378 by Troy Karsting for a variance of the height of a deck on property generally located at 7722 Yancy Drive.

PUBLIC HEARING

December 17, 2004

Stephanie Karsting, owner of the property at 7722 Yancy Drive, stated that they have removed the original deck because it was unsafe and they would like to build a larger deck. When the original deck was built in 1992, it was built in to the required rear yard. They are asking to have the same projection with a height of 9 feet and 3 feet into the required rear yard. They feel making the deck smaller would be a detriment to the home.

Mr. Carroll asked if there was further testimony in favor of or against the appeal. With no one appearing further, Mr. Carroll closed the hearing.

ACTION

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Mr. Wanser moved approval of the deck, seconded by Mr. Hancock. Mr. Wanser stated that he is voting to approve because this lot has a lot of unique characteristics. The houses next to this house have decks similar to this property, and the lot drops off to the back.

Mr. Hancock seconded the motion because the shape and topography of the land is unusual. Mr. Carroll stated that he agrees.

Motion for approval carried 4-0. Carroll, Hancock, Wanser and Wibbels voting 'yes'; Krieser absent.

Appeal No. 2379 by Cameron Hill for a variance of the rear yard setback on property generally located at 3201 Arbor Road.

PUBLIC HEARING

December 17, 2004

Cameron Hill stated that he is board member on the Raymond Rural Fire District, which serves approximately 85 square miles north of the Lincoln city limits. Prior to the early 1980's they operated out of a single fire station which is in the village of Raymond. As the rural area became more of a suburban area to Lincoln, they saw more growth. A great deal of calls especially during inclement weather occur on Interstate 80 of which they cover a portion. They determined that in order to serve the district effectively they needed to add another fire station. They obtained the property at 3201 Arbor Drive, which was part of the Waverly school district. An agreement was worked out with the Waverly school district that they could use it as a fire district. If they cease using it in the capacity of a fire district, it would revert back to the Waverly school district. It was understood that the general character of the schoolhouse be preserved as much as possible. The fire district is now using the schoolhouse as housing for up to three fire fighters who choose to live at the fire station. The existing bay was added to the south in approximately 1982. Recently, the population has increased and there is more traffic on the interstate. Therefore, they added another ambulance, which they would like to house at the southern location. They didn't foresee any of the issues with setback requirements. They feel there are no other options for building another bay.

Mr. Hill clarified that the property is tax exempt.

Ms. Wibbels asked about buying the property to the south. Mr. Hill stated that to the best of his knowledge the property to the south is interstate right-of-way.

Mr. Wanser asked if any consideration was given to moving the location of the fire district. Mr. Hill stated that there has been discussion on whether this station is a viable station. If this station would become part of Lincoln, there is still value in the foreseeable future.

Ms. Wibbels asked about the tax exempt status of the property. Mr. Hill stated that the property is zoned for agriculture, and they have been advised to request that it be changed to public zoning. They decided to ask for a variance because of the shorter length of time needed to pursue this option as opposed to a change of zone.

Ms. Wibbels asked about the owner of the property and the issues relating to the protected corridor. Becky Horner stated that she believes the property is owned by a private entity, not the state. They have not received a response from the Nebraska Department of Roads with regard to the protected corridor. The subject property and the privately-owned property to the south is in the protected corridor.

Ms. Wibbels asked what impact the protected corridor would have on their decision. Tonya Skinner stated that the protected corridor serves several purposes. Future plans for the area plays a part on this variance. She recommended waiting for the response from the Department of Roads. Ms. Wibbels asked if we could approve the application subject to the approval from the Department of Roads. Ms. Skinner stated that they could, although it could be confusing for the record.

Ms. Skinner stated that another issue for the Board to consider is that there is another course of action, which is to apply for public zoning. Since there is another remedy, it is advised to seek that route prior to granting a variance.

Mr. Kathe stated that any public owned and operated building can fit into the public zoned category and there are no setbacks for this zoning.

Mr. Hancock stated that the best solution would be to have this land changed to public zoning. He doesn't believe this body has the authority to grant a variance.

Ms. Skinner reminded the Board that they have to find unusual, peculiar, or exceptional circumstances with the land.

Mr. Carroll asked if there was further testimony in favor of or against the appeal. With no one appearing further, Mr. Carroll closed the hearing.

ACTION

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Ms. Wibbels stated that she understands the need and urgency for this variance. There are also some peculiar circumstances with this lot. Unfortunately, they have to exhaust all other resources before they come here. However, the expediency of this variance is important as well as the safety of others.

Mr. Wanser stated that there are unusual circumstances with this situation.

Mr. Wanser moved approval of this application subject to the approval of the Nebraska Department of Roads with regard to the protected corridor; it was seconded by Ms. Wibbels.

Mr. Hancock stated that he believes the Board does not have the legal authority to grant a variance in this situation. Mr. Carroll stated that although he completely understands the need, he agrees with Mr. Hancock. He also feels that all other resources need to be exhausted before asking for a variance.

Motion to approve failed 2-2. Wanser and Wibbels voting 'yes'; Carroll and Hancock voting 'no'; Krieser absent.

There being no further business, Mr. Carroll adjourned the meeting at 2:26 p.m.